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Filed : February 18, 2004

REMARKS

Claims 34, 46-54, 57-60 and 73-81 were pending in the application. By this paper, Applicant has amended Claims 34, 46, 48, 50, 59-60, and 73-74. Accordingly, Claims 34, 46-54, 57-60 and 73-81 are presented for examination herein.

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Claim Objections

Per page 4 of the Office Action, Claims 34, 57-60, and 73-77 are objected-to as reciting “adapted to/for”, which the Office believes is “*not positive limitations but only require the ability to so perform.*” With addressing the merit or propriety of these objections, Applicant has herein amended the remaining claims to remove this phrase from these claims.

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§102 Rejections

Per page 3 of the Office Action, Claims 34, 46-54, 57-60, and 73-81 stand rejected under 35 U.S.C. §102(e) as being anticipated by Logston, et al. (U.S. Patent No. 6,941,341; hereinafter referred to as “Logston”). In response thereto, Applicant provides the following remarks.

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Claim 34 – Applicant respectfully traverses the §102 rejection of Claim 34 as being anticipated by Logston.

Applicant notes that “*A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.*” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See MPEP 2131.

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At page 3 of the Office Action, the Office argues that Logston discloses “*specifying to said CPE a channel on which on-demand content may be accessed by said CPE (Figure 3, client access on-demand content from the server)*”. Applicant disagrees.

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Fig. 3 merely illustrates a distributed application. Although the CPE and headend are in communication in the embodiment of the distributed application of Fig. 3, there is simply no express or inherent disclosure of the headend specifying a channel on which on-demand content may be accessed by the CPE in Logston. Logston is not in any way aimed at providing such

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information between the headend and CPE but rather, is merely aimed at providing mechanisms for distributing a software application between the headend and CPE. Per Logston col. 16, lines 5-30, the distributed application (of Fig. 3) may interact with a content server which is used to provide encrypted content to client devices. However, nowhere that Applicant can find does
5 Logston discuss specifying a channel on which on-demand content may be accessed by the CPE.

Also, at page 3 of the Office Action, the Office asserts that Logston discloses “*developing a set of second components adapted to process said on-demand content delivered to said CPE (Figure 3).*” Applicant respectfully disagrees and traverses.

At Fig. 3 Logston merely illustrates a distributed application comprising a headend server
10 framework (distributed application server portion (DASP)) 306 and a client device framework (distributed application client portion (DACP)) 308 (see e.g., Logston col. 9, lines 11-36). Additionally, a plurality of DACP modules 300 are distributed at both the headend server 302 and client device 304. The modules 300 “*run on either the server 302 or the client device 304.*” (col. 9, lines 11-13). The specific function of the distributed application in Logston is not
15 disclosed. Thus, nowhere does Logston specifically disclose the DASP 306, the DACP 308 and/or the DACP modules 300 of FIG. 3 being configured to process on-demand content delivered to the CPE.

Furthermore, at page 4 of the Office Action, the Office argues that Logston discloses
20 “*developing a set of third components adapted to cooperate with individual ones of said first and second components to control said functional modes specific to said on-demand application (col. 3, lines 8-12).*” Applicant respectfully disagrees.

At e.g., col. 3, lines 8-12, Logston merely discloses “*Downloading of the communications modules associated with these channels is also performed hierarchically so that only the minimum portion of the distributed application necessary to facilitate communication
25 via the reverse channel is downloaded to the client device.*” The communications modules discussed at col. 3, lines 8-12 above merely comprise modules which enable communication between the headend and CPE. For example, at col. 10, lines 47-51, Logston discloses a DOCSIS communications module which facilitates cable-modem communications between the client device and the server. Elsewhere in the Office Action, with respect to Claim 34, the Office

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5 contends that the set of first components of Claim 34 corresponds to the client DACP framework 308 in Logston, and the set of second components of Claim 34 corresponds to the DACP modules 300. Even if one were to assume *arguendo* that the communications modules to correspond to the set of third components and the sets of first and second components are as discussed above (points which Applicant does not concede), nowhere does Logston disclose the communications modules cooperating with individual ones of the DACP framework 308 and the DACP modules 300 to control functional modes of the distributed application. Nowhere does Logston expressly or inherently discuss controlling the functional modes of the distributed application by the cooperation of these entities.

10 Still further, at page 4 of the Office Action, the Office contends that Logston discloses “*wherein each component of said set of first components, said set of second components and said set of third components is associated with an individual one of different multiple systems operator (MSO) environments (col. 1, lines 53-56).*” Applicant disagrees.

15 At col. 1, lines 53-56, Logston merely discloses “*With the advent of digital cable systems that provide downloadable software applications and reverse communications with entities such as multi-system operator (MSO) head-ends and the Internet, set-top box and client device resource requirements have risen dramatically.*” Although Logston has indicated the existence of multiple MSO head-ends, Logston does not disclose each component of the sets of first, second and third components being associated to an individual one of the different MSO environments.

20 As noted above, the Office has argued that the set of first components of Claim 34 corresponds to the client DACP framework 308 in Logston, and the set of second components of Claim 34 corresponds to the Logston DACP modules 300 and the set of third components corresponds to the communications modules in Logston. However, even if one were to assume the Office’s arguments to be correct (points which Applicant does not concede), the individual ones of the DACP framework 308, the DACP modules 300 and the communications modules are each associated in Logston with the same MSO environment (and the same distributed application).
25 The individual modules disclosed in Logston enable load balancing of a distributed application. That is, individual modules may be run at either the server 306 or client framework 308 (col. 9, lines 11-13). When a particular one of these entities is overloaded, modules may be moved

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around to adjust the load balance (col. 8, line 43 – col. 9, line 6). There is simply no express or inherent disclosure of the modules 300 being associated to different MSO environments.

Still further, at page 4 of the Office Action, it is argued that Logston discloses “...selects for assembly and delivery individual ones of said set of first components, said set of second components, and said set of third components said selection comprising selection of individual ones of said sets specific to an individual one of said plurality of different MSO environments (col. 1, lines 58-62).” Applicant respectfully disagrees and traverses.

At col. 1, lines 58-62, Logston merely disclose the ability to download software applications, including those in various standards (such as, OpenCable Standard, ATSC (Advanced Television Systems Committee), DASE (Digital television Applications Software Environment) and DVB (Digital Video Broadcasting)). As noted above, Logston does not disclose the individual ones of the sets of first, second and third components being associated with different MSO environments.

Further, there is no express or inherent disclosure of selecting for assembly and/or delivery individual ones of components. Rather the components in Logston are each needed for running the distributed application. Hence, Logston cannot disclose selecting individual components specific to an individual one of different MSO environments.

Therefore, Claim 34 is patentably distinguishable over the art cited by the Office on multiple distinct bases, and respectfully not anticipated thereby.

Claims 46 and 73 – Applicant respectfully traverses the §102 rejection of Claims 46 and 73 as being anticipated by Logston.

At page 4 of the Office Action, the Office asserts that Logston discloses “said first software application having permissions from an OCAP monitor... (communication between client and server; Figure 3).” Applicant disagrees.

Logston Fig. 3 merely illustrates a distributed application. The various modules 300 which make up the application are distributed so that certain modules are run at a server framework 306 and remaining modules are run at the client device framework 308. The modules 300 may be re-distributed for load balancing (Logston col. 8, line 43 – col. 9, line 6). Nowhere

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does Logston disclose any of the components, modules, or frameworks having permission from an OpenCable Application Platform (OCAP) monitor application. Rather, Logston merely references at col. 1, lines 58-62, that the downloaded software applications may include OpenCable Standard applications. However, there is no express or inherent disclosure of the downloaded OpenCable standard application comprising an OCAP monitor, or more pointedly the components receiving permissions therefrom.

Still further, with respect to Claim 73, the Office has failed to indicate where it is believed Logston discloses a software application having permissions from an OCAP monitor to permanently identify individual ones of the plurality of components with the CPE by attachment of prefixes to each. Applicant submits that Logston does not disclose attachment of prefixes to the plurality of components. Rather, as noted above, the components or modules 300 merely comprise portions of the distributed application which may be run at either the server or the client device. Logston does not disclose attaching a prefix to these modules 300.

Still further, even if one assumes *arguendo* that Logston disclose this feature (a point which Applicant does not concede), as noted above, nowhere does Logston disclose a software application having permissions from an OCAP monitor.

At page 5 of the Office Action, the Office further argues that Logston discloses the Claim 46 and 73 limitation of “*wherein at least one of said plurality of components comprises a shared component which is adapted to be utilized by one or more second applications also having permissions from an OCAP monitor and simultaneously running on said CPE (col. 18, lines 1-16).*” Applicant disagrees.

At e.g., col. 18, lines 1-16 Logston merely discloses that certain resources within the DASP may be shared among more than one DACP. Even if one were to correlate the resources of the DASP to the shared components of Claims 46 and 73 and the second application which shares the resource to the DACP in Logston (points which Applicant does not necessarily concede), nowhere does Logston disclose the DACP having permissions from an OCAP monitor. Rather, as discussed above, OCAP permissions are not addressed in Logston.

Still further, with respect to Claim 73, Logston does not disclose the sharing of the (DASP) resources among more than one DACP being caused by the utilization of prefixes on the

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shared components as is recited in Claim 73. As discussed above, Logston does not in any way disclose attachment of prefixes to any portion of the resources of the DASP.

Further, Logston does not disclose attachment of prefixes to any other components of the DASP, DACP and/or the modules 300 which are run at either.

5 Therefore, Claims 46 and 73 distinguish over the art of record on multiple distinct bases, and are not anticipated thereby.

Claims 50 and 78 – Applicant respectfully traverses the §102 rejection of Claims 50 and 78 as being anticipated by Logston.

10 At page 6 of the Office Action, the Office contends that Logston discloses “*individual ones of said components adapted to implement different ones of a plurality of network-specific protocol (col. 3, lines 1-15).*” Applicant disagrees.

15 Logston col. 3, lines 1-15 generally discloses a method for downloading application components. A hierarchy for utilizing secondary communication channel options for doing so is discussed. Further, at col. 3, lines 1-15, Logston discloses downloading only the minimum portion of the distributed application necessary to the client device. The various components of the distributed application downloaded at col. 3, lines 1-15 and throughout Logston are needed to implement a single application. For example, at col. 7, lines 64-67, Logston states “*The components of the distributed application are distributed as client and server portions; hereinafter known as the distributed application client portion (DACP) and the distributed application server portion (DASP).*” {emphasis added} Hence, nowhere does Logston disclose individual ones of the components adapted to implement different ones of a plurality of network-specific protocols as set forth in Applicant’s claim(s).

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25 Also at page 6 of the Office Action, the Office argues that Logston discloses “*developing a configured application by selecting individual ones of said plurality of components to be utilized within a single software application (col. 3, lines 1-15).*” Applicant disagrees and traverses.

As noted above, at col. 3, lines 1-15, Logston merely discloses downloading on the minimum portion of a distributed application necessary to a client device, the remainder residing

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at the server portion. As discussed throughout Logston, however, the various components and modules of the distributed application are needed for functioning of the application. Certain portions are run at the server, and certain portions are run at the client device. The load carried by the server and client may be balanced and/or shifted as needed. Thus, in Logston all of the components are utilized within the single software application; there is no express or inherent disclosure of a selection of individual ones of the plurality of components to be utilized within a single software application.

Still further, at page 6 of the Office Action, the Office argues that Logston discloses “developing at least one path to said selected individual ones of said plurality of media interface components, said path being accessible only to authorized entities (col. 3, lines 1-15; col. 16, lines 25-39).” Applicant respectfully disagrees.

At col. 16, lines 25-39, Logston merely discloses a low latency path between the server and client portion counterparts. However, the accessibility of the path only to authorized entities is simply not discussed. Instead, given the nature of the Logston invention as providing applications distributed across the server and a client device (see e.g., Abstract) and for enabling a single server resource to be utilized across multiple client devices (see e.g., col. 18, lines 1-16), it is likely that creating a path to a server component which is accessible only to authorized entities would create unnecessary slowing of the process of running a distributed application.

Therefore, Claims 50 and 78 distinguishes over the art of record.

Other Remarks

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Brief Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant’s position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by

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the Examiner, based on such cancellations or additions.

Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

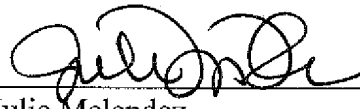
If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

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